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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

DISPOSITION

In the Matter of)

Amendment of Part 13 of the)

Commission's Rules to Privatize)

the Administration of Examinations)

for Commercial Operator Licenses)

and to Clarify Certain Rules)

FO Docket No. 92-206

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 14, 1993

Released: February 12, 1993

By the Commission:

I. INTRODUCTION

1. On August 21, 1992, we adopted a Notice of Proposed Rule Making (Notice) in the above-captioned proceeding.¹ In the Notice, we proposed to privatize the examination of applicants for commercial radio operator licenses and to clarify certain radio operator rules. This Report and Order (Report) adopts rules to privatize commercial license examinations and establishes rules for implementing the new system. It also clarifies and updates the rules as proposed.

¹ See Notice of Proposed Rule Making, FO Docket No. 92-206, 7 FCC Rcd 5890 (1992).

II. BACKGROUND

2. In 1986, we released a Notice of Inquiry seeking comment on whether privatizing commercial radio operator license examinations would serve the public interest.² As a result of that proceeding, we sought and received statutory authority to delegate preparation and administration of operator examinations to one or more private entities.³ Subsequently, we adopted a Notice proposing to amend the Commercial Radio Operator Rules, 47 C.F.R. Part 13, to privatize the six Commission-issued certificates, licenses, permits, or endorsements (licenses) that require an applicant to pass an examination.⁴ In response to the Notice, we received 22 comments and 11 reply comments.⁵

III. DISCUSSION

3. The comments uniformly support our proposal to privatize commercial radio operator examinations. They differ widely, however, in the details of how this should be accomplished. In the paragraphs below we address the issues raised regarding privatization. Prior to addressing these points, however, we believe it would be useful to state again the objective of this proceeding. Our objective here is to establish a private sector operator examination system that meets the need of applicants for more frequent examination opportunities at convenient locations, the need of industry for examinations that reflect state of the art technology and modern operating conditions, and the need of the Commission to reduce the resources it must expend on commercial operator licensing. This goal is necessitated by our continuing desire to provide better service to the public and by the Commission's resource constraints.

² See 51 Fed. Reg. 36415 (1986).

³ See Federal Communications Commission Authorization Act of 1990, Pub. L. 101-396, 104 Stat. 848.

⁴ These licenses are: (1) First Class Radiotelegraph Operator's Certificate, (2) Second Class Radiotelegraph Operator's Certificate, (3) Third Class Radiotelegraph Operator's Certificate, (4) General Radiotelephone Operator License, (5) Marine Radio Operator Permit, and (6) Ship Radar Endorsement. In addition, the Commission stated in the Report and Order in Docket 90-480, 7 FCC Rcd 951 (1992), that it intended to establish two new radio operator licenses, a GMDSS Radio Operator's License and a GMDSS Radio Maintainer's License, that also require the applicant to pass an examination. These are the examinations the Commission proposed to privatize.

⁵ Parties filing comments and reply comments are listed in Appendix A. The National Association of Radio and Telecommunications Engineers, Inc. (NARTE) filed comments one day late with a Motion for Leave to Accept Late Filed Comments (Motion). In the interest of having the most complete record possible in this proceeding, we will grant NARTE's Motion and accept its comments.

A. Privatization.

4. In the Notice we noted the continuing demand for commercial operator licenses⁶ and the problems associated with the current testing system, including limited opportunities to take the tests and out-of-date examination questions. We also stated our belief that these problems will continue in the foreseeable future due to ongoing Commission resource constraints. To resolve these problems, we proposed turning the commercial operator examination function over to the private sector.⁷

5. All of the commenters agree with our analysis of the problems and support privatization of radio operator examinations. For example, NARTE and Mr. Lenahan state that privatization could make testing more accessible.⁸ The American Radio Association (ARA)⁹ contends that the examination questions are outdated and that privatization would permit exams to be offered in any location where sufficient demand exists.¹⁰ Mr. Maia argues that the problems the Commission faced ten years ago in terms of diminishing resources to administer amateur radio examinations, out-of-date questions, and compromised examinations are the same problems the commercial examination system faces today and that privatization solved those problems.¹¹ In short, the commenters contend that the private sector can offer more up-to-date tests and more frequent examinations in many more diverse and accessible locations than the Commission. We agree. Accordingly, we are amending our rules to privatize commercial radio operator examinations.

B. Number of examining entities and entry criteria.

6. In the Notice we asked that commenters specifically address certain issues. One of those issues was "the criteria to be used by the Commission to select the examining entity or entities."¹² The vast majority of commenters recommend we allow multiple entities to give the examinations. For example, Mr. Maia recommends the only limit on the number of entities should be our ability to deal with them.¹³ He suggests we use a system similar to the

⁶ In 1991, approximately 12,100 examinations were administered to applicants for commercial radio licenses, permits, and endorsements.

⁷ Notice at 3, 7.

⁸ Comments of NARTE at 4, John C. Lenahan, Jr. at 1.

⁹ ARA is an organization of seagoing U.S. merchant marine Radio Officers who sail on U.S. flag vessels. Its members serve as the operators of shipboard communications and related electronic equipment.

¹⁰ Comment of ARA at 2, 6.

¹¹ Comments of Frederick O. Maia at 3.

¹² Notice at 3.

¹³ Comment of Frederick O. Maia at 6.

amateur service's Volunteer-Examiner Coordinator (VEC) system.¹⁴ ARA states that we should use an open selection process wherein all entities that meet certain criteria are authorized.¹⁵ Messrs. Benner and Mahoney suggest that we provide marketplace competition by authorizing multiple testing entities.¹⁶ Mr. Smith and The Idaho Power Company (Idaho Power) specifically oppose authorization of only one entity for testing.¹⁷ On the other hand, WESMAC¹⁸ wants us to establish one exclusive entity for each of six geographical regions, while Elkins Institute wants us to establish one exclusive entity nationwide.¹⁹

7. Our experience over the last eight years with the VEC system, which employs multiple entities, has been very favorable.²⁰ This system has served the needs of licensees and individuals admirably. Further, we believe a system with multiple entities managing operator examinations will encourage competition between the entities and result in good service, responsiveness, and lower prices to the applicants. Therefore, we will certify multiple entities.²¹ We are concerned, however, that the number of entities certified to administer operator examinations not become so large that the program becomes administratively difficult or burdensome. For this reason, we will delegate authority to the Chief, Private Radio Bureau to place a cap on the number of entities certified to administer examinations. The number of examination managers we certify, however, will be sufficient to assure at least the level of service presently available to the public, and to create a strong incentive for the managers to compete for examination administration

¹⁴ The VEC system is a private examination system used in the amateur service. In this system, examinations are given for four of the five classes of amateur service licenses. Each applicant for an amateur service license other than the Novice Class and each applicant for a change in operator class, is required to apply through the VEC system. See Sections 97.501-97.527 of the Commission's Rules, 47 C.F.R. §§ 97.501-97.527.

¹⁵ Comments of ARA at 6.

¹⁶ Comments of Kenneth J. Benner at 1, John T. Mahoney at 1.

¹⁷ Comments of Ron Smith at 1, Idaho Power Company at 1.

¹⁸ WESMAC is a training organization that offers pre-employment and on-the-job training and evaluation of technicians in the electronics industry throughout California and, occasionally, Arizona.

¹⁹ Comments of WESMAC at 2, Reply Comments of Elkins Institute at 1-3.

²⁰ In the VEC system, there are 18 organizations that are authorized to coordinate examinations nationwide. As a practical matter, however, all but three of these organizations operate in a local or regional area. This system administered examinations to more than 103,000 persons at 8,118 sessions in 1991.

²¹ As we did with the VECs, we will certify entities through the use of a Memorandum of Understanding (MOU). See paragraph 20. A private sector entity must be certified in order to administer commercial radio operator examinations.

business without causing undue administrative burdens.

8. As for entry criteria, several commenters suggest we use only organizations that have clearly demonstrated professional marketplace qualifications and dedication.²² The United States Merchant Marine Academy (USMMA) recommends we emulate as far as possible the U.S. Coast Guard with regard to authorization of external entities to act as examiners.²³

9. We decline to adopt any special entry criteria at this time. We believe such artificial criteria could preclude certain entities who are sincerely interested in giving operator examinations from becoming Commercial Operator License Examination Managers.²⁴ Rather, we will announce a filing window for accepting requests from entities that desire to become certified examination managers. If, however, we receive more requests for certification than we believe are necessary to effectively serve the public or more requests than administrative efficiency permits us to grant, we will give a preference to those entities proposing to provide the best level of service. The terms of the proposal we receive from an entity, including the proposed level of service, will be incorporated by reference into an agreement if the entity is certified as an examination manager. The entity's proposal thus will become the minimum level of service we will expect it to provide.²⁵ See paragraphs 19-20.

C. Responsibilities/Standards

10. In the Notice we also asked commenters to address the regulatory or operating constraints that should be placed on examination managers including measures to prevent or avoid potential conflict-of-interest situations.²⁶ WESMAC asks that we regulate such entities by establishing broad, general requirements such as the minimum number of times an examination manager must offer examinations, record keeping requirements, and the broad structure of the

²² Comments of Kenneth J. Benner at 1, Richard M. Sealock at 1, John T. Mahoney at 1, and Idaho Power Company at 1.

²³ Comments of U.S. Merchant Marine Academy at 1.

²⁴ For example, requiring entities to offer all commercial radio operator tests or provide nationwide service could eliminate some educational institutions from becoming examination managers.

²⁵ In the comments, six entities expressed an interest in becoming examination managers. Based on this interest, we do not expect to receive more requests for certification than administrative efficiency permits. If we do, however, we will give preference to those entities willing to provide the best service such as offering examinations over the broadest area or for the most types of licenses. For example, an entity willing to test for all types of operator licenses nationwide would be given a preference over entities only willing to test in a regional or local area and entities only willing to test for some of the operator licenses.

²⁶ Notice at 3.

examinations.²⁷ WESMAC also says conflict-of-interest problems can be eliminated by a double-blind examination system.²⁸ ARA suggests that we require that an examination manager be independent of all maritime interests and not be engaged in the business of offering training courses designed solely to prepare applicants to pass the commercial operator examinations.²⁹ Mr. Maia states that requiring all examination managers to use questions randomly selected from a publicly available pool of questions eliminates potential conflict-of-interest situations because the only confidential element is the knowledge of which questions are going to be on a particular version of an examination.³⁰ NARTE contends that competition will make unnecessary any need for heavy handed regulation by the Commission.³¹

11. We agree with the commenters that competition between multiple examination managers and the use of a common question pool reduces the necessity for detailed regulation and that the rules do not need to specify more than a manager's basic duties and responsibilities. Based on the information we have before us and our experience with the VEC system, we shall require that an entity that desires to be an examination manager agree to be responsible for (1) announcing examination sessions, (2) verifying the identity of each examinee, (3) preparing, administering, and grading examinations, (4) notifying examinees of examination results (pass/fail), (5) certifying that an applicant has passed the test elements required to qualify for a commercial operator license and issuing a document to the examinee indicating what elements were passed (proof-of-passing certificate) within 10 days of the examination, (6) ensuring that no activity takes place that would compromise the examination and that no unauthorized material is permitted in the

²⁷ Comments of WESMAC at 2.

²⁸ Id. Under a double-blind system, the person administering the examination has no control over preparation of the version of a test an applicant is given, and the examination is graded at another location by a different examiner who does not know the name of the examinee.

²⁹ Comments of ARA at 7.

³⁰ Comments of Frederick O. Maia at 10.

³¹ Comments of NARTE at 10.

examination room,³² (7) handling post-examination questions and problems, and (8) treating all applicants equally regarding fees or services rendered.³³ Further, to avoid any appearance of impropriety, examination managers cannot administer an examination to an employee, relative, or relative of an employee. The public must be assured that when a test is given, it is given with total impartiality. These requirements are contained in the new rules adopted today.

12. In addition to these duties, we are establishing standards to ensure that the Commission's licensing process is not undermined. For example, without standards addressing the difficulty of passing an examination, applicants could seek the examination manager giving the easiest test or using the lowest passing score. In order to eliminate these types of problems and ensure the integrity of the system we will establish the following standards.

(1) Common Question Pool. The Commission will establish the common question pool which will consist of a question pool for each examination element. All examination questions must be taken from the respective question pools.

(2) Exam standards. We are specifying the topics covered in each element, the number of questions in each element³⁴ and the minimum score needed to pass.

D. Common Question Pool

13. As discussed above, there will be one common question pool. This pool will be made up of a number of smaller question pools, one for each examination element. The commenters argue that most of the current examination questions are out-of-date. The National Association of Business and Educational Radio, Inc. (NABER) and ARA state that we should develop and periodically update a large pool of questions that could be used to computer-generate examinations.³⁵ ARA and Elkins Institute suggest that we form a Federal Advisory Committee to develop the questions and update them every two years.³⁶ ARA also states that the Commission should maintain the database and generate

³² For example, examination managers must prohibit examinees from bringing or using programmable or printing calculators, books and other reference material, radios, or cameras in the examination room or area.

³³ The only exception to this is for handicapped applicants. Examination managers must employ accommodative procedures similar to those provided by VECs for handicapped applicants.

³⁴ Although we have specified the number of questions for each element in the rules, we intend to solicit public comments on the topics and the questions that form the common question pool. See para. 14. Based on the information interested parties submit, we may modify the current examinations (*i.e.*, the number of questions on an element or the topics that each examination element must cover).

³⁵ Comments of NABER at 10-11 and ARA at 3-4.

³⁶ Comments of ARA at 8, Reply Comments of Elkins Institute at 2.

examinations when requested by an examiner.³⁷

14. We agree that a number of questions are out-of-date. To resolve this problem, we intend to revise the current examination questions so that they reflect the state of the art and the current duties and responsibilities of commercial radio operator licensees. To accomplish this, we will first determine what licensees must know to perform their duties properly. We will issue a public notice soliciting possible new test questions and comments on the topics and number of questions in each examination element.³⁸ We hope that the private sector, including individuals, employers, associations, educational institutions and potential examination managers, will help us in this regard. We also will solicit input from subject matter experts. Once we have selected the questions to make up the common question pool we will release the questions and the algorithm for preparing examination question sets by public notice.³⁹ We also believe the examination managers should assist the Commission in keeping the question pool up-to-date. We will ask that they periodically submit recommendations to add or delete questions. Because technology and specific conditions often change quickly, we are delegating authority to the Chief, Private Radio Bureau to modify the common question pool, the required topics, and the number of questions in each element.⁴⁰ This will allow the tests to be easily updated as ARA requests.

E. Commission Oversight

15. The steps we have taken in this proceeding reflect first and foremost our desire to improve the commercial radio operator licensing process and thereby provide better service to the public. We are confident that entities certified as examination managers will serve the public in a responsible manner. We have, however, placed them in an important position in the overall commercial radio operator licensing process. We must, therefore, closely watch their performance.⁴¹ As one check against fraud or abuse, we reserve the right to require applicants for, and holders of, a commercial radio operator license to retake the examination(s) at our discretion.

16. Further, where it appears that an examination manager is not performing its duties in a manner consistent with the public interest, the Commission may

³⁷ Comments of ARA at 8.

³⁸ For example, commenters may indicate that we should place heavier or lighter emphasis on a particular topic.

³⁹ Until the new pools are available, we may ask examination managers to use our existing examinations.

⁴⁰ For the purposes of this proceeding we have established examination elements and the topics the question pools will cover. These may change as a result of input obtained through the Public Notice.

⁴¹ We note that Congress gave the Commission specific authority to prescribe regulations to select, oversee, sanction, and dismiss any person authorized to prepare and administer examinations for commercial operator licenses. See 47 U.S.C. § 154(f)(5)(B).

on its own motion or at the public's request conduct an inquiry into the manager's performance. While we do not intend to initiate such an inquiry on the basis of unsubstantiated complaints, we will do so if there appears to be a pattern of failing to perform the responsibilities and requirements adopted herein. After our investigation, we will determine whether decertification or other action is warranted.

17. In the Notice, we requested commenters to address the amount and reasonableness of fees to be charged for administering examinations.⁴² NABER states that it is unable to provide estimates of costs or expenses until final rules are adopted.⁴³ Mr. Maia points out that if the commercial operator examination program is tacked onto the VEC system, there may be significant economies of scale and minimal marginal increases in the costs already being incurred. Otherwise, this program would have to recover all costs associated with it, such as paper, postage, site rental, and transportation.⁴⁴ ARA states that we should set a standard fee for administering an examination, but allow an increased fee for a service such as examination on demand.⁴⁵

18. A number of entities have stated they are interested in becoming an examination manager. We believe that multiple managers will allow an examinee to select the manager that best meets his or her needs and that competition between managers will help ensure reasonable fees. We also agree with WESMAC and ARA that the determination of the level of services an examination manager chooses to offer (for example testing on demand, as compared with regularly scheduled sessions) and the charge for that service, should not be limited by a Commission-imposed fee structure. Therefore, we are not establishing a fee structure at this time. We will, however, require entities that apply for certification as examination managers to include a proposed fee structure and justification, including cost estimates, in their proposal. We expect fees charged to be reasonable. Further, we will require entities certified as examination managers to file an annual report justifying any change in fee structure they wish to implement, and showing the number of examinations they administered and the pass rate of applicants taking the examinations. If we do not find a sufficient number of acceptable managers to provide meaningful competition, we will revisit this issue as part of our oversight responsibility.

F. Certifying examination managers.

19. A number of entities state they are capable of performing operator license testing and request that they be considered for participation in this

⁴² The statute permits an examination manager to recover from examinees "such fees as the Commission permits, considering such factors as public service and cost estimates submitted by such person." See 47 U.S.C. Section 154(f)(5).

⁴³ Comments of NABER at 12.

⁴⁴ Comments of Frederick O. Maia at 12-13. Mr. Maia also suggests we set a maximum fee of \$35.00 per test per applicant. Id. at 13.

⁴⁵ Comments of ARA at 9.

program. The International Society of Certified Electronic Technicians (ISCET) states that it offers multiple certification options and currently administers 6,000 to 6,500 examinations annually.⁴⁶ WESMAC submitted a proposal for administering examinations and states that it has presented courses that prepare technicians for the General Radiotelephone Operator License examination. ARA, NABER, Frederick O. Maia, and The Roach Organization, also are willing to consider becoming examination managers, depending on the final rules we adopt.⁴⁷

20. We are amending our rules to delegate authority to the Chief, Private Radio Bureau, to enter into written agreements with qualified entities who desire to be examination managers. The form and general terms of these agreements will be announced at a later date by Public Notice.⁴⁸ This announcement will also specify when entities interested in becoming examination managers may request consideration.

21. We will announce by Public Notice, and update as necessary, the names and addresses of entities that we have certified as examination managers when that process is complete. At that time, persons wanting to obtain a commercial radio operator license must go to an examination manager and take the test for the license desired or needed. When the person passes the test(s), he or she will fill out the appropriate license application Form and mail it together with a valid proof-of-passing certificate to: Federal Communications Commission, Licensing Division, 1270 Fairfield Road, Gettysburg, PA. 17325-7245.

22. While we plan to transfer the examination function to the private sector as soon as possible, it will take some time to certify examination managers, revise the question pool, and for managers to set up their systems. We will issue a separate public notice describing the special procedures for examinations for commercial radio operator licenses during this phase-in period. Questions concerning special examinations for commercial radio operator licenses should be addressed to the Commission's field offices. Questions concerning this rule making should be addressed to the Private Radio Bureau.

G. Other matters.

23. In the Notice, we proposed to delete Section 13.24 of the Commission's Rules, 47 C.F.R. Section 13.24. This section requires that an applicant must answer at least 75 percent of the questions correctly to pass a written examination. We are not adopting this proposal. We believe that the rule is reasonable, and none of the commenters indicated this standard was burdensome. We believe that the rules should specify the passing standard to maintain uniformity among multiple examination managers.

⁴⁶ Comments of ISCET at 1.

⁴⁷ Comments of ARA at 8, Maia at 8, NABER at 12, The Roach Organization at 2.

⁴⁸ We anticipate at this time that the agreements will be similar to those used between the Commission and the VECs.

24. Our decision to privatize examinations also requires that we reorganize and clarify rules to reduce regulatory burdens and make the rules more useful for examination managers and applicants. As part of this decision, therefore, we are making editorial revisions to Part 13 to eliminate rules that limit the examination managers' flexibility in administering examinations,⁴⁹ to combine multiple rule sections that contain requirements for one license,⁵⁰ and to eliminate a class of license that will not be available under the privatized system.⁵¹ We also are eliminating rules that are redundant, unnecessary, or obsolete,⁵² to conform with the decisions we have made in this proceeding. None of these editorial revisions are significant rule revisions. We also are reorganizing the rules so that they are in a sequence that will increase licensee understanding and ease of use.

25. Final Regulatory Flexibility Analysis.

Need and purpose of this Action. This rule making proceeding was needed to obtain comments regarding our proposal to privatize examinations for licenses specified under Part 13 of the Commission's Rules. The purpose of this action is to promote excellence and efficiency in the licensing of commercial radio operators by increasing the availability, relevance, and validity of commercial radio operator examinations and reducing government expenses.

Summary of issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis. The commenters agree that the potential impact of these rule changes is to improve the efficiency in licensing commercial radio operators, thereby making it easier for small entities to hire licensed commercial radio operators. The commenters also recognize that the

⁴⁹ See, for example, Sections 13.27, 13.42, and 13.44.

⁵⁰ Requirements for the First Class Radio Telegraph Operator's Certificate are presently in Sections 13.22(b)(1) and 13.12(a).

⁵¹ See Section 13.8. A Provisional Radio Operator Certificate was issued only after an applicant had passed the necessary examination requirements for the license sought. Passing the examinations at a Commission-administered test session provided a basis for us finding the applicant qualified. Under the privatized system, however, we would have no basis to find an applicant qualified until the applicant submitted his or her application and the proof-of-passing certificate showing the required examination elements were passed. The Commission would then issue the applicant the appropriate license document.

⁵² For example, Section 13.22(c) specifies the certification that an applicant for a Restricted Radiotelephone Operator Permit must make. This certification is printed on FCC Forms 753 and 755, with the statement that if the applicant cannot make the certification, the applicant is not eligible for the Permit. See also, Sections 13.26 and 13.28(c) and (d), which contain references to radiotelephone licenses that are no longer issued, and Section 13.62, which specifies actions prohibited by other rules or statutes.

rule changes adopted in this proceeding may affect entities that voluntarily apply to become commercial radio operator license examination managers and entities that are engaged in training individuals to pass commercial radio operator examinations.

Significant alternatives considered and rejected. Alternatives include the Commission continuing to give examinations or contracting with another entity or entities to perform examination functions. The proposed alternative is adopted to minimize the impact on small entities.

IV. CONCLUSION

26. In summary, we are adopting a series of rule amendments to privatize commercial radio operator license examinations. Our decision will promote excellence and efficiency in the licensing of commercial radio operators. It will also increase the availability and effectiveness of examinations and reduce government expenses. The Commission will still issue commercial radio operator licenses. We are confident of the soundness of the approach we have taken herein and the benefits to the public that will flow from this approach. Nevertheless, as with implementing any new system, we realize that changes and modifications often have to be made as experienced is gained. Therefore, we will continue to monitor progress in this area and take steps to improve the overall process when necessary.⁵³

⁵³ For example, with the implementation of GMDSS, radiotelegraph operators are being phased out. Therefore, we may combine or eliminate the three radiotelegraph certificates in the future.

V. ORDERING CLAUSES


27. Accordingly, IT IS ORDERED that effective March 29, 1993, Parts 0 and 13 of the Commission's Rules, 47 C.F.R. Parts 0 and 13, ARE AMENDED as set forth in Appendix B. Authority for this action is found in Sections 4(f)(5), 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(f)(5), 154(i) and 303(r).

28. IT IS FURTHER ORDERED that the Private Radio Bureau will issue Public Notices detailing the procedures an individual or organization must follow to apply to become a Commercial Operator License Examination Manager (COLEM) and specifying the questions and topics in the commercial radio operator license examination common question pool.

29. IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

30. For information concerning this Report and Order contact William T. Cross, Personal Radio Branch, Private Radio Bureau, (202) 632-4964.

FEDERAL COMMUNICATIONS COMMISSION


Donna R. Searcy
Secretary

Attachments

Appendix A

Comments were received from the following parties:

International Society of Certified Electronic Technicians (ISCET)
The American Radio Association (ARA)
The Association of American Railroads (AAR)
Frederick O. Maia
National Association of Business and Educational Radio, Inc. (NABER)
WESMAC
Idaho Power Company
John C. Lenahan, Jr.
Fredric Stawarz
Constantinos J. Mantis
Richard D. Churchill
Tad E. Hobbs
Kenneth J. Brenner
Richard M. Sealock
John T. Mahoney, Wolters Communications Contractors, Inc.
Telecommunications Resource Associates (TRA)
Ron Smith, Communications and Emergency Products, Inc.
The Roach Organization, Inc. (Roach)
The National Association of Radio and Telecommunications Engineers, Inc.
(NARTE)
SCI Maritime Training (SCI)
U.S. Merchant Marine Academy (USMMA)
The Calhoon MEBA Engineering School (MEBA)

Reply Comments were received from the following parties:

American Institute of Merchant Shipping
ARA
Elkins Institute
Industrial Telecommunications Association, Inc.
NABER
NARTE
National Marine Electronics Association (NEMA)
Roach
USMMA
WESMAC
WPT Publications

Appendix B

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Part 0-Commission Organization

1. The authority citation for Part 0 continues to read as follows:

AUTHORITY: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.131 is amended by adding new paragraphs (h) and (i) to read as follows:

§ 0.131 Functions of the Bureau.

* * * * *

(h) Establishes the number of examination managers necessary to manage commercial operator license examinations under Part 13 of the rules; executes in the name of the Commission agreements pertaining to certification and employment of services of entities found qualified to prepare and administer commercial operator license examinations under Part 13 of the rules; considers requests for review of certified manager's decisions; engages in oversight of manager actions and practices; and decertifies entities that do not perform satisfactorily.

(i) Revises the common question pool, the required Elements and topics, and the number of questions in each Element for commercial radio operator license examinations, as appropriate.

3. Section 0.485 is revised to read as follows:

§ 0.485 Commercial radio operator examinations.

Generally, written and telegraphy examinations for commercial radio operator licenses shall be conducted at locations and times specified by commercial operator license examination managers. (See § 13.209). When the FCC conducts these examinations, they shall take place at locations and times specified by the FCC.

Part 13 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

Part 13-Commercial Radio Operators

1. The authority citation for Part 13 continues to read as follows:

AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303.

2. Part 13 is revised to read as follows:

PART 13-COMMERCIAL RADIO OPERATORS

GENERAL

- § 13.1 Basis and purpose.
- § 13.3 Definitions.
- § 13.5 Licensed commercial radio operators required.
- § 13.7 Classification of operator licenses and endorsements.
- § 13.9 Eligibility and application for new license or endorsement.
- § 13.11 Holding more than one commercial radio operator license.
- § 13.13 Application for renewed or modified license.
- § 13.15 License term.
- § 13.17 Replacement license.
- § 13.19 Operator's responsibility.

EXAMINATION SYSTEM

- § 13.201 Qualifying for a commercial operator license or endorsement.
- § 13.203 Examination elements.
- § 13.205 Examination credit for licenses held.
- § 13.207 Preparing an examination.
- § 13.209 Examination procedures.
- § 13.211 Commercial radio operator license examination.
- § 13.213 COLEM qualifications.
- § 13.215 Question pools.
- § 13.217 Records.

GENERAL PROVISIONS

§ 13.1 Basis and purpose.

(a) Basis. The basis for the rules contained in this Part is the Communications Act of 1934, as amended, and applicable treaties and agreements to which the United States is a party.

(b) Purpose. The purpose of the rules in this Part is to prescribe the manner and conditions under which commercial radio operators are licensed by the Commission.

§ 13.3 Definitions.

The definitions of terms used in Part 13 are:

- (a) COLEM. Commercial operator license examination manager.
- (b) Commercial radio operator. A person holding a license or licenses specified in § 13.7(b).
- (c) GMDSS. Global Maritime Distress and Safety System.
- (d) FCC. Federal Communications Commission.
- (e) International Morse code. A dot-dash code as defined in International Telegraph and Telephone Consultative Committee (CCITT) Recommendation F.1 (1984), Division B, I. Morse code.
- (f) ITU. International Telecommunication Union.
- (g) PPC. Proof-of-Passing Certificate.
- (h) Question pool. All current examination questions for a designated written examination element.
- (i) Question set. A series of examination questions on a given examination selected from the current question pool.
- (j) Radio Regulations. The latest ITU Radio Regulations to which the United States is a party.

§ 13.5 Licensed commercial radio operator required.

Rules that require FCC station licensees to have certain transmitter operating, maintenance, and repair duties performed by a commercial radio operator are contained in Parts 23, 73, 74, 80, and 87 of this Chapter.

§ 13.7 Classification of operator licenses and endorsements.

- (a) Commercial radio operator licenses issued by the FCC are classified in accordance with the Radio Regulations of the ITU.
- (b) There are nine types of commercial radio operator licenses, certificates and permits (licenses). The license's ITU classification, if different from its name, is given in parenthesis.
 - (1) First Class Radiotelegraph Operator's Certificate.
 - (2) Second Class Radiotelegraph Operator's Certificate.
 - (3) Third Class Radiotelegraph Operator's Certificate (radiotelegraph operator's special certificate).
 - (4) General Radiotelephone Operator License (radiotelephone operator's general certificate).

(5) Marine Radio Operator Permit (radiotelephone operator's restricted certificate).

(6) Restricted Radiotelephone Operator Permit (radiotelephone operator's restricted certificate).

(7) Restricted Radiotelephone Operator Permit-Limited Use (radiotelephone operator's restricted certificate).

(8) GMDSS Radio Operator's License (general operator's certificate).

(9) GMDSS Radio Maintainer's License (technical portion of the first-class radio electronic certificate).

(c) There are six license endorsements affixed by the FCC to provide special authorizations or restrictions. Endorsements may be affixed to the license(s) indicated in parenthesis.

(1) Ship Radar Endorsement (First and Second Class Radiotelegraph Operator's Certificates, General Radiotelephone Operator License, GMDSS Radio Maintainer's License).

(2) Six Months Service Endorsement (First and Second Class Radiotelegraph Operator's License).

(3) Restrictive endorsements relating to physical handicaps, English language or literacy waivers, or other matters (all licenses).

(4) Marine Radio Operator Permits shall bear the following endorsement: This Permit does not authorize the operation of AM, FM or TV broadcast stations.

(5) General Radiotelephone Operator Licenses issued after December 31, 1985, shall bear the following endorsement: This license confers authority to operate licensed radio stations in the Aviation, Marine and International Fixed Public Radio Serviced only. This authority is subject to: any endorsement placed upon this license; FCC orders, rules, and regulations; United States statutes; and the provisions of any treaties to which the United States is a party. This license does not confer any authority to operate broadcast stations. It is not assignable or transferable.

(6) (i) If a person is afflicted with an uncorrected physical handicap which would clearly prevent the performance of all or any part of the duties of a radio operator, under the license for which application is made, at a station under emergency conditions involving the safety of life or property, that person still may be issued the license if found qualified. Such a license shall bear a restrictive endorsement as follows:

This license is not valid for the performance of any operating duties, other than installation, service and maintenance duties, at any station licensed by the FCC which is required, directly or indirectly, by any treaty, statute or rule or regulation pursuant to statute, to be provided for safety purposes.

(ii) In the case of a license that does not require an examination in technical radio matters, the endorsement specified in (i) above will be modified by deleting the reference therein to installation, service, and maintenance duties.

(iii) In any case where an applicant who normally would receive or has received a commercial radio operator license bearing the endorsement prescribed by paragraph (i) above, indicates a desire to operate a station falling within the prohibited terms of the endorsement, the applicant may request in writing that such endorsement not be placed upon, or be removed from his or her license, and may submit written comments or statements from other parties in support thereof.

(iv) An applicant who shows that he has performed satisfactorily the duties of a radio operator at a station required to be provided for safety purposes during a period when he or she was afflicted by uncorrected physical handicaps of the same kind and to the same degree as the physical handicaps shown by his or her current application shall not be deemed to be within the provisions of paragraph (i) above.

(d) A Restricted Radiotelephone Operator Permit-Limited Use issued by the FCC to an aircraft pilot who is not legally eligible for employment in the United States is valid only for operating radio stations on aircraft.

(e) A Restricted Radiotelephone Operator Permit-Limited Use issued by the FCC to a person under the provision of § 303(1)(2) of the Communications Act of 1934, as amended, is valid only for the operation of radio stations for which that person is the station licensee.

§ 13.9 Eligibility and application for new license or endorsement.

(a) If found qualified, the following persons are eligible to apply for commercial radio operator licenses:

(1) Any person legally eligible for employment in the United States.

(2) Any person, for the purpose of operating aircraft radio stations, who holds:

(i) United States pilot certificates; or

(ii) Foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such foreign government does not impose any similar requirement relating to eligibility for employment upon United States citizens.

(3) Any person who holds a FCC radio station license, for the purpose of operating that station.

(4) Notwithstanding any other provisions of the FCC's rules, no person shall be eligible to be issued a commercial radio operator license when

(i) the person's commercial radio operator license is suspended, or

(ii) the person's commercial radio operator license is the subject of an ongoing suspension proceeding, or

(iii) the person is afflicted with complete deafness or complete muteness or complete inability for any other reason to transmit correctly and to receive correctly by telephone spoken messages in English.

(b) (1) Each application for a new General Radiotelephone Operator License, Marine Radio Operator Permit, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, Ship Radar Endorsement, Six Months Service Endorsement, GMDSS Radio Operator's License or GMDSS Radio Maintainer's License must be made on FCC Form 756.

(2) Each application for a Restricted Radiotelephone Operator Permit must be made on FCC Form 753.

(3) Each application for a Restricted Radiotelephone Operator Permit-Limited Use must be made on FCC Form 755.

(c) Each application for a new General Radiotelephone Operator License, Marine Radio Operator Permit, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, Ship Radar Endorsement, GMDSS Radio Operator's License or GMDSS Radio Maintainer's License must include an original PPC(s) from a COLEM(s) showing that the applicant has passed the necessary examination element(s). The applicant must submit the application to the address specified in the Part 1 of the rules.

(d) Each application for a new six month radiotelegraph endorsement must include documentation showing that the applicant has satisfied the requirements of Section 13.201(c). The applicant must submit the application to the address specified in the Part 1 of the rules.

(e) No person shall alter, duplicate for fraudulent purposes, or fraudulently obtain or attempt to obtain an operator license. No person shall use a license issued to another or a license that he or she knows to be altered, duplicated for fraudulent purposes, or fraudulently obtained. No person shall obtain or attempt to obtain, or assist another person to obtain or attempt to obtain, an operator license by fraudulent means.

§ 13.11 Holding more than one commercial radio operator license.

(a) An eligible person may hold more than one commercial operator license except as follows:

(1) No person may hold two or more unexpired radiotelegraph operator's certificates at the same time;

(2) No person may hold any class of radiotelegraph operator's certificate and a Marine Radio Operator Permit;

(3) No person may hold any class of radiotelegraph operator's certificate and a Restricted Radiotelephone Operator Permit.

(b) Each person who is not legally eligible for employment in the United States, and certain other persons who were issued permits prior to September 13, 1982, may hold two Restricted Radiotelephone Operator Permits simultaneously when each permit authorizes the operation of a particular station or class of stations.

§ 13.13 Application for a renewed or modified license.

(a) Each application to renew a First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, GMDSS Radio Operator's License, or GMDSS Radio Maintainer's License must be made on FCC Form 756. The application must be accompanied by the original document or a legible photocopy unless it has been lost, mutilated, or destroyed. If the license has been lost, mutilated, or destroyed, submit a written explanation. The application must be accompanied by the appropriate fee and submitted to the address specified in Part 1 of the rules.

(b) A licensee may submit an application for renewal of an unexpired license during the last year of the license term. If a license expires, application for renewal may be made during a grace period of five years after the expiration date without having to retake the required examinations. The application must be accompanied by the required fee and submitted to the address specified in Part 1 of the rules. During the grace period, the expired license is not valid. A license renewed during the grace period will be effective as of the date of the renewal. Licensees who fail to renew their license within the grace period must apply for a new license and take the required examination(s).

(c) Each application involving a change in operator class must be made on FCC Form 756. Each application for a commercial operator license involving a change in operator class must include original PPC(s) from a COLEM showing that the applicant has passed the necessary examination element(s). The application must be accompanied by the required fee, if any, and submitted to the address specified in Part 1 of the rules.

(d) The holder of a First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, General Radiotelephone Operator License, GMDSS Radio Operator's License, or GMDSS Radio Maintainer's License whose name is legally changed may obtain a modified license by filing a FCC Form 756 with a written explanation. The application must be accompanied by the required fee and submitted to the address specified in Part 1 of the rules.

(e) A licensee who has made application for a renewed or modified operator license or permit may exhibit a photocopy of their license in lieu of the original document.

§ 13.15 License Term.

(a) Commercial radio operator licenses are normally valid for a term of five years from the date of issuance, except as provided in paragraph (b) of this section.

(b) General Radiotelephone Operator Licenses, Restricted Radiotelephone Operator Permits, and Restricted Radiotelephone Operator Permits-Limited Use are normally valid for the lifetime of the holder. The terms of all Restricted Radiotelephone Operator Permits issued prior to November 15, 1953, and valid on that date, are extended to the lifetime of the operator.

§ 13.17 Replacement license.

(a) Each licensee or permittee whose original document is lost, mutilated, or destroyed must request a replacement. The application must be accompanied by the required fee and submitted to the address specified in Part 1 of the rules.

(b) Each application for a replacement General Radiotelephone Operator License, Marine Radio Operator Permit, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, GMDSS Radio Operator's License, GMDSS Radio Maintainer's License, must be made on FCC Form 756 and must include a written explanation as to the circumstances involved in the loss, mutilation, or destruction of the original document.

(c) Each application for a replacement Restricted Radiotelephone Operator Permit must be on FCC Form 753.

(d) Each application for a replacement Restricted Radiotelephone Operator Permit-Limited Use must be on FCC Form 755.

(e) A licensee who has made application for a replacement license may exhibit a copy of the application submitted to the FCC or a photocopy of the license in lieu of the original document.

§ 13.19 Operator's responsibility.

(a) The operator responsible for maintenance of a transmitter may permit other persons to adjust that transmitter in the operator's presence for the purpose of carrying out tests or making adjustments requiring specialized knowledge or skill, provided that he or she shall not be relieved thereby from responsibility for the proper operation of the equipment.

(b) In every case where a station operating log or service and maintenance log is required, the operator responsible for the station operation or maintenance shall make the required entries in the station log. If no station log is required, the operator responsible for service or maintenance duties which may affect the proper operation of the station shall sign and date an entry in the station maintenance records giving:

(1) Pertinent details of all service and maintenance work performed by the operator or conducted under his or her supervision;

(2) His or her name and address; and

(3) The class, serial number and expiration date of the license:

(c) When the operator is on duty and in charge of transmitting systems, or performing service, maintenance or inspection functions, the license or permit document, or a photocopy thereof, must be posted or in the operator's personal possession, and available for inspection upon request by a FCC representative.

(d) The operator on duty and in charge of transmitting systems, or performing service, maintenance or inspection functions, shall not be subject to the requirements of paragraph (b) of this section at a station, or stations of one licensee at a single location, at which the operator is regularly employed and at which his or her license, or a photocopy, is posted.

EXAMINATION SYSTEM

§ 13.201 Qualifying for a commercial operator license or endorsement.

(a) To be qualified to hold any commercial radio operator license, an applicant must have a satisfactory knowledge of FCC rules and must have the ability to send correctly and receive correctly spoken messages in the English language.

(b) An applicant must pass an examination for the issuance of a new commercial radio operator license, other than the Restricted Radiotelephone Operator Permit and the Restricted Radiotelephone Operator Permit-Limited Use, and for each change in operator class. An applicant must pass an examination for the issuance of a new Ship Radar Endorsement. Each applicant for the class of license or endorsement specified below must pass, or otherwise receive credit for, the corresponding examination elements:

- (1) First Class Radiotelegraph Operator's Certificate.
 - (i) Telegraphy Elements 3 and 4;
 - (ii) Written Elements 1, 5, and 6;
 - (iii) Applicant must be at least 21 years old;
 - (iv) Applicant must have one year of experience in sending and receiving public correspondence by radiotelegraph at a public coast station, a ship station, or both.
- (2) Second Class Radiotelegraph Operator's Certificate.
 - (i) Telegraphy Elements 1 and 2;
 - (ii) Written Elements 1, 5, and 6.
- (3) Third Class Radiotelegraph Operator's Certificate.
 - (i) Telegraphy Elements 1 and 2;
 - (ii) Written Elements 1 and 5.
- (4) General Radiotelephone Operator License: Written Elements 1 and 3.
- (5) Marine Radio Operator Permit: Written Element 1.
- (6) GMDSS Radio Operator's License: Written Elements 1 and 7.
- (7) GMDSS Radio Maintainer's License: Written Elements 1, 3, and 9.
- (8) Ship Radar Endorsement: Written Element 8.

(c) An applicant for the six months service endorsement must show that:

- (1) The applicant was employed as a radio operator on board a ship or ships of the United States for a period totaling at least six months;
- (2) The ships were equipped with a radio station complying with the provisions of Part II of Title III of the Communications Act, or the ships were owned and operated by the U.S. Government and equipped with radio stations;
- (3) The ships were in service during the applicable six month period and no portion of any single in-port period included in the qualifying six months period exceeded seven days;
- (4) The applicant held a FCC-issued First or Second Class Radiotelegraph Operator's Certificate during this entire six month qualifying period; and
- (5) The applicant holds a radio officer's license issued by the U.S.

Coast Guard at the time the six month endorsement is requested.

§ 13.203 Examination elements.

(a) A written examination (written Element) must prove that the examinee possesses the operational and technical qualifications to perform the duties required by a person holding that class of commercial radio operator license. Each written examination must be comprised of a question set as follows:

(1) Element 1 (formerly Elements 1 and 2): Basic radio law and operating practice with which every maritime radio operator should be familiar. 24 questions concerning provisions of laws, treaties, regulations, and operating procedures and practices generally followed or required in communicating by means of radiotelephone stations. The minimum passing score is 18 questions answered correctly.

(2) Element 3: General radiotelephone. 76 questions concerning electronic fundamentals and techniques required to adjust, repair, and maintain radio transmitters and receivers at stations licensed by the FCC in the aviation, maritime, and international fixed public radio services. The minimum passing score is 57 questions answered correctly.

(3) Element 5: Radiotelegraph operating practice. 50 questions concerning radio operating procedures and practices generally followed or required in communicating by means of radiotelegraph stations primarily other than in the maritime mobile services of public correspondence. The minimum passing score is 38 questions answered correctly.

(4) Element 6: Advanced radiotelegraph. 100 questions concerning technical, legal and other matters applicable to the operation of all classes of radiotelegraph stations, including operating procedures and practices in the maritime mobile services of public correspondence, and associated matters such as radio navigational aids, message traffic routing and accounting, etc. The minimum passing score is 75 questions answered correctly.

(5) Element 7: GMDSS radio operating practices. 76 questions concerning GMDSS radio operating procedures and practices sufficient to show detailed practical knowledge of the operation of all GMDSS sub-systems and equipment; ability to send and receive correctly by radio telephone and narrow-band direct-printing telegraphy; detailed knowledge of the regulations applying to radio communications, knowledge of the documents relating to charges for radio communications and knowledge of those provisions of the International Convention for the Safety of Life at Sea which relate to radio; sufficient knowledge of English to be able to express oneself satisfactorily both orally and in writing; knowledge of and ability to perform each function listed in Section 80.1081; and knowledge covering the requirements set forth in IMO Assembly Resolution on Training for Radio Personnel (GMDSS), Annex 3. The minimum passing score is 57 questions answered correctly.